

WASHINGTON, DC OFFICE

fifth floor

flour mill building

1000 potomac street nw

washington, dc 20007-3501

TEL 202 965 7880 FAX 202 965 1729

OTHER OFFICES

new york, new york

portland, oregon

seattle, washington

GSBLAW.COM

G A R N E Y S C H U B E R T B A R E R

DOCKET FILE COPY ORIGINAL

September 23, 2002

OUR FILE NO.
21279-00100

RECEIVED

SEP 23 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary
Federal Communications Commission
c/o Vistrionix, Inc.
236 Massachusetts Avenue, NE, Suite 110
Washington, DC 20002

RE: MB Docket No. 02-210
RM-10510
Grant County Broadcasters
Hyannis, NE
Channel 250C1

Dear Ms. Dortch:

Transmitted herewith, on behalf of Grant County Broadcasters, are an original and four copies of the **COMMENTS OF GRANT COUNTY BROADCASTERS**, in response to the Commission's Notice of Proposed Rulemaking regarding the allocation of Channel 250C1 to Hyannis, Nebraska.

Should further information be necessary regarding this submission, kindly communicate directly with this office.

Sincerely,


John M. Pelkey

JMP/blr

No. of Copies rec'd
List ABOVE

014

Before The
Federal Communications Commission

Washington, D.C. 20554

RECEIVED

SEP 23 2002

In re Amendment of

Section 73.202(b)

Table of Allotments

FM Broadcast Stations

Hyannis, NE

)
)
)
)
)
)

MB Docket No. 02-210

RM-10510

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Assistant Chief, Audio Division

Comments of Grant County Broadcasters

By Petition for Rule Making filed June 24, 2002, Grant County Broadcasters (referred to herein as "GCB") requested that the Commission institute a rule making proceeding to amend Section 73.202(b) of the Commission's rules, the Table of FM Allotments, by allotting Channel 250C1 to Hyannis, Nebraska, as that community's first local aural transmission service. In response, the Commission released a Notice of Proposed Rulemaking ("*NPRM*") in the above-captioned proceeding, proposing the requested change to the Table of Allotments and soliciting the submission of comments by September 23, 2002.¹ GCB, through counsel, hereby submits its comments in response to the *NPRM*. As will be shown below, the proposed rule making is consistent with

¹ See *NPRM*, MB Docket No. 02-210 (RM-10510), DA 02-1874 (adopted July 24, 2002, released August 2, 2002).

Commission policy and would advance the public interest. Accordingly, the proposed rule making should be adopted.

I. Hyannis is a Community in Need of Broadcast Service.

In its Petition for Rule Making, which is hereby incorporated by reference, GCB requested that the Table of Allotments be amended to allocate Channel 250C1 to Hyannis, Nebraska, so as to permit the provision of that community's first local aural transmission service. Hyannis, Nebraska, which was founded in 1887, is an incorporated community with a population of 287 persons according to the 2000 U.S. census. It is governed by a Village Board and has its own post office with its own zip code, 69350. It is also the county seat of Grant County, Nebraska, which has a population of 747 persons. As befits its status as the county seat, Hyannis is the locus of the Grant County Courthouse. Both the Grant County Court and the State of Nebraska's 16th District sit in Hyannis. The Grant County Sheriff also maintains its office there. Hyannis is home to numerous businesses, including two banks, a grocery store, a veterinary service, a lumber yard, a family doctor and a newly-remodeled hotel, the Hyannis Hotel, which was built in 1898 and which has been placed on the National Register of Historic Places. Hyannis boasts a local newspaper, *The Grant County News*. Educational needs of the community are met by Hyannis Elementary School and Hyannis High School. Despite Hyannis's status, however, no broadcast facilities of any type are allocated to the community. Allocation of Channel 250C1 would remedy this deficiency.

II. Allocation of Channel 250C1 to Hyannis would Well Serve the Commission's Allocations Priorities and thus would be in the Public Interest, while Fully Abiding with the Commission's Technical Requirements.

In Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 5 FCC Rcd 7094, 7096 (1990), the Commission held that provision of first local service is the highest of the allotment priorities which remains in any significant degree unsatisfied.² The allocation to Hyannis would permit Hyannis to receive its first local aural channel, thus serving this highest of allotment priorities.

In addition, as was explained in GBC's Petition for Rule Making, Channel 250C1 can be allotted to Hyannis consistent with the minimum distance separation requirements of the Commission's rules and without a site restriction.³ As was also demonstrated in the Petition for Rule Making, city-grade coverage would be achieved over all of Hyannis from the reference coordinates.⁴

III. GCB Reaffirms its Commitment to Apply for the Requested Facilities and Construct those Facilities Promptly.

In its Petition for Rule Making, GCB committed that, if the proposed amendment to the Table of Allotments were adopted, it would promptly apply for an

² As the Commission explained in *Revision of FM Assignment Policies and Procedures*, the FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters (with co-equal weight being given to priorities (2) and (3)). 90 FCC2d 88, 91 (1982).

³ *Petition for Rule Making* at 2-3.

authorization to construct the new facilities and, if it were awarded the construction permit, would construct the new facilities promptly.⁵ GCB hereby reaffirms that earlier commitment and, in accordance with paragraph 2 of the Appendix to the *NPRM*, specifically states its intention to apply for Channel 250C1 if that channel is allocated to Hyannis, and, if authorized, to promptly construct the new facilities, place the facilities in operation, and seek a license covering the construction of the facilities.

IV. Conclusion

The above facts demonstrate that the Commission's allocation criteria would be well served by the allocation of Channel 250C1 to Hyannis, Nebraska, as such allocation would provide that community with its first local aural transmission service. Inasmuch as the allocation to Hyannis complies with all separations requirements and can be accomplished with no site restriction, thus permitting city grade coverage of all of Hyannis, the proposal is consistent in all respects with the Commission's rules.

⁴ *Petition for Rule Making* at 3. The proposed reference coordinates are 42-00-02 NL; 101-45-41 WL. No site restriction is required.


⁵ *Petition for Rule Making* at 3.

Accordingly, GCB respectfully requests that the Table of FM Allotments be amended as follows:

| Community | Present Allotment | Proposed Allotment |
|-------------------|-------------------|--------------------|
| Hyannis, Nebraska | - - | 250C1 |

Respectfully submitted,

Grant County Broadcasters

By: 
John M. Pelkey
Its Attorney

Garvey Schubert Barer
5th Floor, 1000 Potomac Street, N.W.
Washington, DC 20007

202/965-7880

Date: September 23, 2002

CERTIFICATE OF SERVICE

I, Barbara L. Rascon, a secretary in the law offices of Garvey Schubert Barer, hereby certify that I have on this 23rd day of September, 2002, sent copies of the enclosed "**COMMENTS OF GRANT COUNTY BROADCASTERS**" by hand-delivery or first-class, United States mail, postage prepaid, to the following:

*Rolanda F. Smith
Federal Communications Commission
Media Bureau
445 Twelfth Street, SW, Room 3-A320
Washington, DC 20554


Barbara L. Rascon

* Hand Delivery